

REMARKS

Claims 32-39, 42-46, 52-56 and 59-71 are pending in this application. Claims 33, 34, 37-39, 46, 60, 61, 64, 69, 70 and 71 have been amended. Claims 60, 61 and 70 have been amended to clarify the relationship between the blower and the thermoelectric device. Claims 33, 34 and 46 have been amended to address a clarity issue. Claims 37-39, 64, 69 and 71 have been amended to further define the invention. No new matter has been added, as support may be found throughout the specification.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

Rejection under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 38 and 39 under 35 U.S.C. §112, second paragraph as indefinite. The antecedent basis problem identified by the Examiner

has been corrected and the Applicants respectfully request that the rejection be withdrawn.

Rejections under 35 U.S.C. §103

The Examiner rejected claims 32-39, 42-44, 46, 52-56 and 60-71 under 35 U.S.C. §103 as obvious over U.S. Patent No. 6,273,810 to Rhodes et al. ("Rhodes") in view of U.S. Patent No. 6,687,937 to Harker ("Harker"). Applicants traverse this rejection.

Contrary to the assertion of the Examiner, Rhodes does not disclose the use of a blower both to draw ambient air through a flow control layer and to draw temperature conditioned air through a conduit where they are mixed in the insert. The Examiner has not cited any portion of Rhodes where this feature is disclosed nor has the Examiner explained the reasoning supporting the conclusion that Rhodes teaches such a feature. Without more, the Examiner's bare conclusion that the feature is disclosed is insufficient. Thus, Rhodes does not disclose all the features that the Examiner asserts that it does.

Moreover, Applicants agree with the Examiner that Rhodes does not disclose the use of a conduit with at least one flow hole or a conduit that extends across a portion of the seat portion of the insert.

Contrary to the assertion of the Examiner, Harker does not fill in the gaps of Rhodes. Initially, the Examiner does not identify where Harker discloses the use of a blower both to draw ambient air through a flow control layer and to draw temperature conditioned air through a conduit where they are mixed in the insert.

Further, the Examiner's analysis of Harker is not clear to the Applicants. The Examiner states that Harker discloses a conduit and identifies the conduit by reference numerals 80 and 30. However, a review of the specification shows that reference numeral designates a plurality of snaps (column 9:line 40) and a bottom sheet (6:35), respectively. Clarification of how the snaps and the bottom sheet of Harker equate to the conduit element of the present claims is respectfully requested, especially in view of Harker's description of the bottom sheet as:

Preferably, the cover bottom sheet 30 is constructed out of a flexible plastic material that is both liquid and air impermeable. However, it should be understood that the use of rigid or less pliable materials, that are both liquid and air impermeable, in constructing the cover bottom

sheet 30 is also possible without departing from the scope of the invention. (8:53-59).

Furthermore, additional clarification is requested concerning the Examiner's statement that Harker discloses a conduit with at least one flow hole. The Examiner identifies the flow hole as designated by reference numeral 106. However, a review of the specification shows that reference numeral designates holes in the peripheral edge of the cover bottom sheet 30 that allow tubing 65 from the air pump 34 to be connected to the air supply connections 64. (9:44-48). It seems that the tubing 65 is threaded through the holes 106 of the bottom cover sheet 30. Applicant request clarification of how holes 106 are flow holes in a conduit.

Lastly, the Examiner states that Harker discloses a conduit that extends across a portion of the seat portion of the insert. However, the Examiner provides neither citations to the specification nor any explanation of the reasoning supporting this conclusion. Without more, the Examiner's bare conclusion that the feature is disclosed is insufficient. Thus, Harker does not disclose all the features that the Examiner asserts that it does.

In sum, the Examiner has failed to show that the references disclose each feature of presently claimed invention. In particular, the references do not disclose: 1) the use of a blower both to draw ambient air through a flow control layer and to draw temperature conditioned air through a conduit where they are mixed in the insert; 2) a conduit with at least one flow hole; and 3) a conduit that extends across a portion of the seat portion of the insert. For at least these reasons, Applicants request that this rejection be withdrawn.

In addition, Applicants request that this rejection be withdrawn because of a lack of motivation to combine the references. The Examiner has offered no reasoning supporting the bare conclusion that motivation to combine exists. A bare conclusion on the part of the Examiner is insufficient to provide the requisite motivation to a skilled artisan to combine the references.

With regard to the remaining claims, the Examiner has failed to identify where Rhodes or Harker disclose numerous elements. For example:

- the conduit is within a sealed edge of the insert (claims 33 and 65);
- the conduit is attached to the insert along at least a portion of the length of the conduit (claim 34);
- the location of the conduit relative to the flow control layer (claims 35, 36);

- the fluid connection of the TED to the spacer (claim 37);
- the use of an insert with an extension (claims 39, 46 and 66);
- the location of the conduit relative to the insert itself (claims 52-56).
- the use of a blower that draws ambient air through the flow control layer and draws temperature conditioned air through the conduit and into the spacer (claim 60);
- the use of at least one fan to draw ambient air through the seat cover into the spacer through the at least one ventilation hole of the flow control layer and to draw temperature conditioned air from the TED into the spacer through the flow hole and the ventilation hole (claim 61);
- the use of an integrated heater layer (claims 64);
- the use of the fan to both blow air toward the TED and draw air away from the TED (claim 69); and
- the use of two fans, one to draw ambient air and one to blow air from the TED (claims 70).

Because of this lack of disclosure, Applicants respectfully request that the rejection against the remaining claims be withdrawn.

The Examiner rejected claim 45 under 35 U.S.C. §103 as obvious over Rhodes in view of U.S. Patent No. 6,048,024 to Wallman ("Wallman"). Applicants traverse this rejection for essentially the same reasons stated above. Wallman does not fill in the gaps in Rhodes identified above and thus the references do not disclose all the elements of the present claims. Moreover, the Examiner has offered no reasoning supporting the bare conclusion that motivation to combine the references exists. A bare conclusion on the part of the Examiner is insufficient to provide the requisite motivation to a skilled artisan to combine the references. Applicants request that this rejection be withdrawn.

The Examiner rejected claims 59 and 62 under 35 U.S.C. §103 as obvious over Rhodes in view of U.S. Patent No. 6,767,621 to Flick et al. ("Flick"). Applicants traverse this rejection. Applicants traverse this rejection for essentially the same reasons stated above. Flick does not fill in the gaps in Rhodes identified above and thus the references do not disclose all the elements of the present claims. Moreover, the Examiner has offered no reasoning supporting the bare conclusion that motivation to combine the references exists. A bare conclusion on the part of the Examiner is insufficient to provide the requisite motivation to a skilled artisan to combine the references. Applicants request that this rejection be withdrawn.

CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (319) 594-2200.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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